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REMODELING THE SHOWROOM PAGE 6

IMPLEMENT & TRACTOR

The Business Magazine of the Agricultural, Industrial & Outdoor Power Equipment Industry

VOLUME 106, No. 2 FEBRUARY 1991

Lawsuit Teaches Valuable Lessons

By Scott Nesbitt

"The lady got hurt when she flipped the tractor. She admitted they made a mistake. That was before they saw a lawyer."

EDITOR'S NOTEBOOK

LAST month's "Editor's Notebook" touched some nerves with dealers over the issue of safety, liability and insurance settlements, and resulted in a fascinating phone call.

The caller said he was the dealer Ford New Holland referred to in a full-page I&T advertisement that talked about an "equipment dealer from the Southwest who settled out of court for over 1 million dollars."

The ad said the dealer "thought he could save a customer a few hundred by selling a used tractor without ROPS. He won't do that again."

That isn't exactly the situation, said the caller.

The story, as he told it, is even more chilling from the standpoint of any dealer who handles any used, or new, machinery.

Before getting into this, understand that in 2 decades in the news business, I've never before used material from a person without knowing his name. In this case, I made an exception because the caller sounded

(See NOTEBOOK, pg. 3)

OPEI Sees Downturn For 1991

OPEI's Economic Forecast for outdoor power equipment has been revised to reflect current national economic conditions.

Due to indications of recession and rising unemployment, consumers are staying away from the housing market and the purchase a big-ticket items. The sale of outdoor power equipment, as well as other durable goods, is strongly affected by housing starts and resales.

Shipments of walk-behind powered mowers, front engine lawn tractors, and riding garden tractors are all expected to decrease in the 1991 model year. However, increased shipments in these categories are forecasted for the model year 1992.

A more optimistic outlook for rear engine riders is predicted with 14.1 percent and 2.8 percent increases in shipments for the 1991 and 1992 model years respectively.

A new category for tillers has been added in an effort to expand the scope of the forecast. □

(See Table On Page 10)

KUBOTA'S RON CROUSE pointed out the benefits of his firm's walk-behind bagging mower during last year's International Lawn, Garden and Power Equipment Expo. Kubota, best known for tractors, is one of many equipment manufacturers making a commitment to the development of improved products for the turf industry. For an update on what's new in mowers, see page 8.

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Outdoor Power Equipment Emphasis

IMPLEMENT & TRACTOR

The Business Magazine of the Agricultural, Industrial & Outdoor Power Equipment Industry

FEBRUARY 1991
VOL. 106, NO. 2

IMPLEMENT & TRACTOR
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Subscription Information: Implement & Tractor is edited for persons in the farm and industrial equipment industry who function in the areas of retail sales and service, distribution sales and service, marketing, engineering, financing, manufacturing and general management. Subscription prices: U.S. and Canada one year — $15, three years — $30. Single copies, $2.50, except Annual Statistical Number, $4; Product File issue, $8; Red Book issue, $8. Extra charge for service on back issues. Allow 6-8 weeks for change of address and new subscriptions. Foreign subscriptions: Air Mail only available. One year — $100; three years — $250 (U.S. currency).

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ISSN 0019-2953 $2.50 + 0.00

IMPLEMENT & TRACTOR (USPS 461-750, ISSN-0019-2953) is published monthly, except combined November/December issue, by Farm Press Publications, P.O. Box 1420, Clarksdale, Miss. 38614. Second class postage paid at Clarksdale, Miss., and additional mailing offices. POSTMASTER: Send Form 3579 to P.O. Box 1420, Clarksdale, Miss. 38614.

Farm Press Publications
A Division of Argus Press Holdings, Inc.

NOTEBOOK—

(From pg. 1)

very legitimate. He knew details about the case I had also heard from FNH people and others involved in it.

The story begins with the purchase of a 1957 Ford tractor from the dealership by a young couple. The husband was experienced with using tractors, the wife was not. The tractor was in average condition for something with 30-plus years on it.

My caller says that when the tractor left the dealership, it carried a "postage-stamp" sized decal at the rear end. This critical little decal warns the tractor operator not to pull loads with the top link of the 3-point hitch.

The decal, said my caller, was covered up when the tractor was repainted. The tractor's owners, not the dealership, repainted the tractor.

The couple put their repainted tractor to work pulling stumps or some comparable load-hauling. The tractor left the dealership equipped with a drawbar, but for some reason, said my caller, the couple attached their pulling chain to the top link, rather than the drawbar.

The tractor flipped.

"The woman was driving, and she admitted she didn't have much experience on a tractor," said my caller. "She was in the shop 2 days later with stitches in her head and told all about it. She said, 'we knew better than to do that.' "

It took a few months for the couple to start legal action as a result of the injury and accident. My caller said he understood the couple had gone to talk to the lawyer about another matter, but somehow ended up with the notion of seeking compensation for the injury. It is sheer speculation as to whether the lawyer suggested that action.

The case, said my caller, was taken to a county where "we had no possibility of winning," given the track record of courts and juries in that court district. Insurance company attorneys handled the case for the dealer.

Initially, my caller said, the matter was going to be settled out of court for $500,000, but the insurance company lawyers disclosed that the dealership had a $1 million umbrella liability policy. That resulted in the damages sought suddenly rising to $1.5 million.

"They finally settled for a $1.1 or $1.2," said my caller. "I understand that after they settled with us, they came back and took a swipe at Ford, but I'm not sure how that turned out."

My caller said he's been a dealer since the end of World War II, "and this was the first time I'd ever been sued. We had always tried to play it safe with equipment, tried to do the right thing, but it's getting more treacherous out there all the time."

My caller didn't agree with the statement in the FNH ad about saving a customer a "few hundred dollars."

"There wouldn't have been a sale if we'd installed a roll bar," said the caller. "It was a $1,700 roll bar and it was a $3,000 tractor. The buyer didn't want it. We mentioned it, but he didn't want it."

The caller commented that the situation revolved around the safety decal, which he called "a flimsy piece of paper."

"If a safety warning is so important," he argued, "it would seem manufacturers would put it on a metal plate that could still be read after a tractor is repainted."

The subject of farm machinery safety, he said, seems to get short shrift in the general scheme of things, he said.

"I had a high school class in here and asked them if they had safety decals on their tractors back home. Only 2 of them were familiar with what those decals said. The rest didn't know they were there or what they said."

My caller said he expected the out-of-court settlement between the injured woman and the insurance company was going to double the dealership's insurance premiums, which stood at $13,339 a year now. He noted that he was not able to force the case to be heard before a judge and/or a jury, because the insurance attorneys decided to settle out of court. But he will end up paying the higher premiums.

The caller said he tried to do the right things. He offered the customer a roll bar, but the only one he knew of being available for that machine cost more than half the asking price of the used tractor, and the customer rejected it. He says he heard the injured party say she was at fault. He also said that he had the customers sign a card that said they were familiar with safe operation of the tractor and that the machine was delivered in safe operating condition.

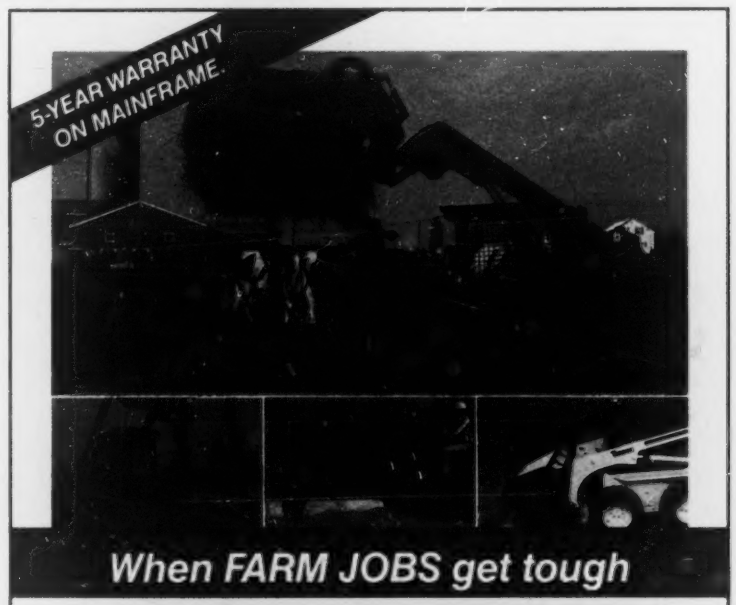
"I was told that would not have meant anything in court," he said.

What's a dealer to do? Get out of the business? Stop selling any used equipment, or maybe only sell equipment less than 5 years old?

My caller said his best solution so far is "I take pictures of everything that goes out of here."

He pulls out a Polaroid instant camera and gives the customer all the safety books that were supposed to come with the tractor, plus some others that didn't come from the original manufacturer.

"I get him to stand at the rear, where all the safety decals are, and I take his picture, with him holding all the books. I use the instant camera because I want to make sure I have the picture. Then I put it in a file, with all the other things from that sale, and hope I never have to pull it out of there again." □



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INDUSTRY NEWS

1990's Sales Figures: Not All That Bad

WHILE 1990 sales tractor sales totals were almost the same at 1989's, there were substantial increases in larger 2wd classes and in the 4wd category. The Equipment Manufacturers Institute also reported that combine sales were up 14.5 percent over the previous year. For December, a whopping 46.3 percent rise was seen in the 100-hp and over 2wd tractor category.

In sum, sales began well in 1990, slumped after the early-August Gulf hostilities flared, then began creeping back up. But weakness persisted in the under-40-hp category, a segment that generally rises and falls with the housing market, rather than agricultural markets. □

U.S. - UNIT RETAIL SALES

Equipment	December 1990	December 1989	% Change	January-December 1990	January-December 1989	% Change	November 1990 Inventory N.A. Factory & U.S. Field
Farm Wheel Tractors:							
2-Wheel Drive							
Under 40 HP	2,194	2,401	(8.6)	42,040	46,923	(10.4)	41,056
40 & Under 100 HP	2,853	2,633	8.4	38,411	34,905	10.0	25,137
100 HP & Over	3,575	2,443	46.3	22,797	20,595	10.7	16,030
Total 2-Wheel Drive	8,622	7,477	15.3	103,248	102,423	.8	82,223
Total 4-Wheel Drive	433	385	12.5	5,102	4,152	22.9	2,561
Total Farm Wheel Tractors	9,055	7,862	15.2	108,350	106,575	1.7	84,784
Combines:							
(Self-Propelled)	1,082	1,012	6.9	10,432	9,110	14.5	5,121

These data are, in part, estimates which are subject to revisions when final detail data become available. Because of the seasonal nature of the industry comparisons of monthly data from one period to another should be done with extreme caution. These data represent most, but not all, of the manufacturers in each product category being sold at retail in the fifty states and the District of Columbia.

Blout Inc. Reports $4.2 Million Net Income

Blount, Inc. has reported net income of $4.2 million ($.35 per share) for the third quarter ended Nov. 30, 1990. This compares to net income of $3.4 million ($.28 per share) during last year's third quarter.

This year's results include a $1.2 million ($.10 per share) after-tax extraordinary gain from the repurchase of $13.8 million of the company's subordinated notes. Last year's results included a $.5 million ($.04 per share) net loss from discontinued operations. Third quarter sales and revenues were $185.2 million compared to $165.2 million last year.

For the 9 month period ended Nov. 30, Blount reported net income of $4.2 million ($.35 per share), compared to net income of $12.8 million ($1.06 per share) in the prior fiscal year's 9 month period. Last year's 9 month results included $6.4 million ($.53 per share) income from the resolution of tax matters principally related to foreign tax credits and royalties and a $2.9 million ($.24 per share) loss from discontinued operations. Year-to-date sales and revenues were $528.9 million, compared to $528.2 million in the prior year.

R. William Van Sant, Blount, Inc. President and Chief Executive Officer, said, "We are generally pleased with the quarter's results, especially given the state of the economy and current situation in the Persian Gulf. Our emphasis during the balance of the year will be to minimize the impact of a softening economy while maintaining longer-term programs for growth and building value."

The Outdoor Products segment reported operating income of $8.6 million and sales of $55.9 million, compared to $7.9 million in operating income and $47.1 million sales in last year's third quarter. Nine month operating income was $14.9 million compared to $15.1 million last year while sales increased to $143.1 million from $125.1 million the prior year.

Operating income from Industrial and Power Equipment was $.9 million compared to $1.6 million last year. Sales were $22 million compared to $24.5 million last year. For the 9 month period sales were $68.0 million and operating income was $2.8 million compared to last year's sales of $69.3 million and operating income of $3.2 million. Current year results reflect lower order levels due to economic conditions affecting the operation's principal markets, particularly pulp/paper and forestry products. □

BRIEFLY...

The updated 1990-1991 membership directory is now available from the Outdoor Power Equipment Distributors Association, 1900 Arch St., Philadelphia, Pa., 19103.

Gates, Dodge Sign Agreement

The Gates Rubber Company and Dodge of Reliance Electric have signed an agreement to share manufacturing capacity of industrial belt sheaves, pulleys, sprockets and bushings.

The agreement was effective Jan. 10 and includes the North American operations of both companies.

According to Al Stoner, Gates senior vice president, power transmission division, and Joseph D. Swann, Dodge vice president and general manager, the alliance offers several benefits for power transmission distributors and their customers.

First, the alliance means that these leading manufacturers will provide long-term stability and a greater commitment to the marketplace, "which has seen considerable turmoil," says Stoner.

Second, the alliance, says Swann, "will utilize Dodge World Class Manufacturing Techniques to efficiently produce sheaves, pulleys, and synchronous sprockets and bushings for both companies."

Both companies stressed that the alliance is a joint utilization of manufacturing capabilities, not a merger or buy-out. □

Economic Forecast For OPEI

This summary information is extracted from the Outdoor Power Equipment Institute's (OPEI) Economic Forecast for the Outdoor Power Equipment Industry dated December 19,1990 which represents an update of the August, 1990 Forecast. The complete forecast, based on an econometric model developed by Association Research, Inc. (ARI), provides unit shipments data, by quarters, for each of the five major OPE segments: Walk-Behind Power Mowers; Rear Engine Riding Mowers; Front Engine Lawn Tractors; Riding Garden Tractors; Tillers.

Additionally, information provided to the OPEI membership includes a comprehensive discussion of assumptions about the U.S. economy and their relationship to the outdoor power equipment industry.

The table provided below shows the forecast for OPEI model years 1991 (September, 1990-August 1991) and 1992 (September, 1991-August, 1992). Percent changes are based on comparison of current year to previous year. For example, the shipments of walk-behind mowers for the 1991 model year are expected to be 7.4 percent lower than 1990.

MODEL YEAR BASIS (Sep-Aug)

	1984	1985	1986	ACTUAL 1987	1988	1989	1990	FORECAST 1991	1992
UNIT SHIPMENTS									
Walk-Behind Powered Mowers	4,950,000	5,193,000	5,400,000	5,900,000	5,600,000	5,300,000	5,700,000	5,277,399	5,418,479
Percent Change	12.5%	4.9%	4.0%	9.3%	-5.1%	-5.4%	7.5%	-7.4%	2.7%
Rear Engine Riding Mowers	354,000	355,000	322,000	375,000	375,000	260,000	247,000	281,718	289,716
Percent Change	28.3%	0.3%	-9.3%	16.5%	0.0%	-30.7%	-5.0%	14.1%	2.8%
Front Engine Lawn Tractors	502,000	548,000	623,000	800,000	812,000	792,999	885,000	841,014	977,818
Percent Change	21.0%	9.2%	13.7%	28.4%	1.5%	-2.3%	11.6%	-5.0%	16.3%
Riding Garden Tractors	152,000	147,000	149,000	150,000	170,000	139,000	156,000	151,460	169,918
Percent Change	17.8%	-3.3%	1.4%	0.7%	13.3%	-18.2%	12.2%	-2.9%	12.2%
All Riding Units	1,008,000	1,050,000	1,094,000	1,325,000	1,357,000	1,191,999	1,288,000	1,274,191	1,437,452
Percent Change	22.9%	4.2%	4.2%	21.1%	2.4%	-12.2%	8.1%	-1.1%	12.8%
Tillers	399,000	362,000	311,000	272,000	285,000	305,000	300,000	282,730	269,026
Percent Change	5.6%	-9.3%	-14.1%	-12.5%	4.8%	7.0%	-1.6%	-5.8%	-4.8%